

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

ROBBIE EMERY BURKE,)	
)	
Plaintiff,)	
)	
vs.)	No. 18-CV-108-RAW
)	
MUSKOGEE COUNTY COUNCIL OF)	
YOUTH SERVICES ("MCCOYS"),)	
et al.,)	
)	
Defendants.)	

VOLUME I AUDIOVIDEO DEPOSITION OF JERROD LANG, a witness called on behalf of the Plaintiff, on the 28th day of January, 2019, at One West Third Street, Suite 900, commencing at 10:44 a.m., in the City of Tulsa, County of Tulsa, State of Oklahoma, before the undersigned, Marlene Johnson, a Certified Shorthand Reporter in and for the State of Oklahoma.

Marlene Johnson, CSR

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**PLAINTIFF'S
EXHIBIT**

4

1 Q And when you would get confused, who would you report 11:20AM
2 that to?

3 A Either Patty, Anthony or Joe Washington.

4 Q And what would their response be?

5 A They had different answers for me as well sometimes. 11:20AM

6 Q Okay. So you were getting different answers from all
7 these different supervisors about the same topic, the same
8 concern you had; is that fair?

9 A Yes, sir.

10 Q Okay. Did that make it frustrating? 11:20AM

11 A Very much.

12 Q Okay. Did you express your frustration? Did you
13 tell those supervisors that you were confused about what
14 your obligations were?

15 A Yes, sir. 11:20AM

16 Q And what were their responses when you would tell
17 them that?

18 A We'll go over it and Patty would come through and
19 show me policies and procedures.

20 Q Okay. They said, "We'll go over that," like, we're 11:20AM
21 going to go over that in the future?

22 A Yes, sir.

23 Q Okay. We're going to get into that a little bit
24 more. At line 23, you stated, at least according to this
25 report, "Lang said he was required to sign a form stating 11:21AM

1 he had received and read the policies and procedures for 11:21AM
2 the Muskogee County Regional Juvenile Detention Center
3 before he had had a chance to actually read the manual."

4 Do you recall making that statement?

5 A Yes, sir. 11:21AM

6 Q Okay. Is that a true statement?

7 A Yes, it is.

8 Q Okay. Walk me through, Jerrod, that process when
9 they gave you the policies and procedures, but you didn't
10 get a chance to read them? 11:21AM

11 A I was handed a book and told to follow it. And
12 Leonard took me into the control room and told me to read
13 as much as you can. And maybe an hour, less than an hour
14 later, he came and got me and said, "Okay, we'll go over
15 the rest of it later, but, right now, I need you to come 11:22AM
16 help me. We'll go over this and we'll go over this."

17 Q Okay. About an hour of time he gave you?

18 A Yes, sir.

19 Q Okay. Give me one second, okay, Jerrod, because we
20 did this with Brandon and I want to ask you kind of the 11:22AM
21 same.

22 MR. SMOLEN: Hey, Thomas, is there a -- I
23 thought Marisa would be here with the exhibits, but she's
24 not. I was having to reprint this one.

25 MR. LeBLANC: Which one? 11:23AM

1 BY MR. SMOLEN: 11:25AM

2 Q Okay. You were there when I had Brandon hold those
3 up. That was about the amount of information you were
4 given on that first day and given an hour to read through,
5 correct? 11:25AM

6 MR. LeBLANC: Object to the form.

7 A Yes, sir.

8 BY MR. SMOLEN:

9 Q Okay. I had a difficult time reading through that
10 over several days. Were you able to sufficiently read the 11:25AM
11 policies and procedures and the training documentations
12 within an hour?

13 MR. LeBLANC: Object to the form.

14 A No, I was not able.

15 BY MR. SMOLEN: 11:26AM

16 Q Okay.

17 A I was advised to read certain parts.

18 Q Okay. That first day, you were --

19 A Rules and regulations, something like that. I can't
20 exactly remember exactly which one it was, but it was 11:26AM
21 something about rules. And once I finished reading that,
22 I skimmed through a few more pages, read some few more
23 pages and he came and got me.

24 Q Okay. But that was the extent of it, correct?

25 A Yes, sir. 11:26AM

1 A Yes, sir. 11:31AM

2 Q Okay. I mean, you're not telling me that you had
3 lied to the investigators, are you?

4 A No, sir.

5 Q Okay. I mean, you've had an opportunity to read all 11:31AM
6 these documents, correct?

7 A Yes, sir. Not at all. I don't know about all.

8 Q Well, the investigative findings, correct?

9 A Yes.

10 Q Did you ever go back and tell someone that, "hey, you 11:31AM
11 took my statement down wrong?"

12 A I was in a bad state of mind at that time when I was
13 being questioned.

14 Q Okay.

15 A I was in the -- traumatized. 11:31AM

16 Q Well, were you traumatized when you wrote your
17 response to the findings of neglect and abuse?

18 A Yes.

19 Q You were still traumatized?

20 A Yes. 11:31AM

21 Q Okay. Are you still traumatized as we sit here?

22 A Very much so.

23 Q Okay. So if you're traumatized then and you were
24 traumatized when you wrote your letter, you're traumatized

25 now, can the jury rely on the answers that you're giving 11:32AM

1 today? 11:32AM

2 A Yes.

3 MR. LeBLANC: Object to the form.

4 BY MR. SMOLEN:

5 Q Could they rely on the answers that you gave in your 11:32AM
6 appeal to your findings of abuse and neglect?

7 A Yes.

8 Q Can the jury rely on the statement that you made to
9 the investigators as being true statements?

10 A Yes. 11:32AM

11 Q Twenty-five, "Lang said he did not receive any formal
12 training to be a shift supervisor. Lang said there were a
13 few shifts where he received on-the-job training, but he
14 was mostly left on his own to figure things out." Is that
15 a true statement? 11:32AM

16 A Yes, sir.

17 Q Okay. Is that an accurate description of your
18 training?

19 A "Accurate" as exactly how it went? There was -- I
20 mean, there was some training. 11:33AM

21 Q Right. "Lang said he did not receive any formal
22 training to be a shift supervisor. Lang said there were,
23 quote, 'a few shifts, where he received on-the-job
24 training, but he was mostly left on his own to figure
25 things out.'" 11:33AM

1 A And the phone number to call Joe and Patty. 11:33AM

2 Q Okay. That is an accurate description of the
3 training you received as a shift supervisor, correct?

4 A Yes, sir.

5 (Plaintiff's Exhibit No. 2 was marked for 11:33AM
6 identification.)

7 Q Okay. Let's look at Exhibit 2. This will be ACA/DHS
8 Investigative File at Page 31 and 30, Bates page 288,
9 Plaintiff's 288 and 289. Go ahead and, if you would, flip
10 there. Do you recall -- let me ask you this. Do you 11:34AM
11 recognize the handwriting?

12 A Yes, sir.

13 Q And whose handwriting is it?

14 A Mine.

15 Q Did you draft this document? 11:34AM

16 A Did I draft it?

17 Q Uh-huh. Did you prepare it? Did they -- did you
18 write it out?

19 A Yes.

20 Q Anyone tell you what to say? 11:35AM

21 A No.

22 Q Okay. Did you complete this on your own?

23 A Yes.

24 Q Anyone help you?

25 A My wife helped me proofread it. 11:35AM

1 Q Okay. 11:36AM

2 A And I asked her if it sounded okay.

3 Q So you had a lot of your own time to draft up the
4 two-page document, correct?

5 A Yes, sir. 11:36AM

6 Q You had the opportunity to have your wife review it
7 to make sure that you had dotted your I's and crossed your
8 Ts, correct?

9 A Yes, sir.

10 Q Okay. And you did this because you had been found by 11:36AM
11 the Oklahoma Department of Human Services to have
12 perpetrated neglect and abuse on a resident by the name of
13 Billy Woods, correct?

14 A Yes, sir.

15 Q Okay. And the purpose of your letter was to explain 11:37AM
16 your position on that finding, correct?

17 MR. LeBLANC: Object to the form.

18 A Yes, sir.

19 BY MR. SMOLEN:

20 Q And you start -- you write it on May 31st of 2017, 11:37AM
21 correct?

22 A Yes, sir.

23 Q You say, "When I first took the job at MCCOYS J.D.C.,
24 I came in without the credentials to take any higher
25 position," true statement? 11:37AM

1 Q You go on to say, "If I was to stick around." That 11:45AM
2 means if you were actually going to stay on at MCCOYS then
3 you would get the training, right?

4 MR. LeBLANC: Object to the form.

5 A Yes. 11:45AM

6 BY MR. SMOLEN:

7 Q Okay. You go on to state, "That never happened. I
8 stayed longer than them," correct?

9 A Yes.

10 Q So here we've got a situation where you're writing to 11:45AM
11 the Oklahoma Department of Human Services saying, "Look, I
12 was supposed to be trained by these individuals if I had
13 ultimately stayed on at MCCOYS," correct?

14 A Yes.

15 Q But you never got trained by those individuals 11:45AM
16 because you stayed longer with them and they quit before
17 that happened, correct?

18 A Yes.

19 Q Okay. You go on to state, "Knowing I wasn't
20 qualified for the job, I took it." How did you know you 11:46AM
21 weren't qualified for it?

22 A That's just how I felt. I knew I wasn't qualified,
23 me, personally.

24 Q You knew?

25 A Knowing me, I wasn't qualified. 11:46AM

1 Q And you didn't want it, correct? 11:46AM

2 A Exactly.

3 Q You hadn't worked in juvenile for over a year,
4 correct?

5 A No, sir. 11:46AM

6 Q You didn't want the job, but you were told you needed
7 to take it, correct?

8 MR. LeBLANC: Object to the form.

9 MR. WOOD: Object to form.

10 A It was policy. I wasn't told to take it, I was 11:46AM
11 offered it numerous times.

12 BY MR. SMOLEN:

13 Q You say, "After taking the shift supervisor position,
14 I realized why all the old supervisors quit," correct?

15 A (No response.) 11:46AM

16 Q Yes?

17 A Yes, sir.

18 Q True statement?

19 A Yes, sir.

20 Q Tell me what your realization was. 11:47AM

21 A Stressful.

22 Q Okay. "Stressful." Why was it stressful?

23 A Paperwork was a major deal for me; attitudes with
24 staff and residents; nobody wanted somebody over them so
25 they would treat you like -- 11:47AM

1	A	A lot.	11:57AM
2	Q	A lot?	
3	A	A lot.	
4	Q	And why did you ask it a lot?	
5	A	I didn't like being in that position.	11:57AM
6	Q	Did you ever tell Cindy Perkins that?	
7	A	I never could get ahold of Ms. Cindy Perkins.	
8	Q	Did you try?	
9	A	Numerous times.	
10	Q	And the numerous times you tried to get ahold of	11:57AM
11		Cindy Perkins, what was the purpose of it?	
12	A	To figure out what do we do about this letter and	
13		throughout the job, it was -- when I come out there to do	
14		my drug test at one point, and then I couldn't get ahold	
15		of her, she wasn't in the office. And all the other	11:58AM
16		times, it was like some of the employees were telling me	
17		that's who you talk to about if you have a problem, such	
18		as Ms. Margaret Taylor. "If you have got a problem, call	
19		Ms. Cindy." I could never get ahold of Ms. Cindy.	
20	Q	Okay. Well, tell me about the problems you were	11:58AM
21		talking -- trying to get ahold of Cindy about.	
22	A	Employees being jerks and not doing their jobs.	
23	Q	Okay. And would you leave her voicemails?	
24	A	Yes, I'd leave messages.	
25	Q	Okay. And you never would get a call back?	11:58AM

1 A Huh-uh. 11:58AM

2 Q Did you tell Joe Washington that you'd been trying to
3 call Cindy?

4 A No.

5 Q Okay. Did you tell Patty Reece that you had been 11:58AM
6 trying to call Cindy?

7 A Yes.

8 Q Okay. Did you go to Patty Reece to try to report
9 these issues that you had with employees, I'm assuming
10 detention workers, not doing their job? 11:59AM

11 A Yes.

12 Q Okay. What was her response?

13 A "Tell Joe."

14 Q Okay. And when you would tell Joe, all he would do
15 is raise it in the meetings and you never saw any 11:59AM
16 discipline issued, correct?

17 MR. LeBLANC: Object to the form.

18 BY MR. SMOLEN:

19 Q Is that correct?

20 A Correct. 11:59AM

21 (Plaintiff's Exhibit No. 35 was marked for
22 identification.)

23 Q Okay. I'm going to hand you what we're going to mark
24 as Exhibit 35 to your deposition. I'm going to just run
25 through these with you real quick, okay? And we can 12:00PM

1 Q Okay. So let's look at Exhibit 10. 1:36PM
2 A 10?
3 Q Uh-huh.
4 MR. LeBLANC: Dan, what is Number 10? I
5 didn't get a Number 10. 1:36PM
6 MR. SMOLEN: It's MCCOYS 20.
7 MR. LeBLANC: Okay.
8 MR. SIMS: That's our only copy.
9 MR. SMOLEN: That's the one -- would you
10 like us to make a copy of it? 1:36PM
11 MR. LeBLANC: Well, I'd like to at least
12 see what it is. I don't have the papers memorized.
13 BY MR. SMOLEN:
14 Q And what is this form?
15 A Admission sheet from the second day. 1:36PM
16 Q Okay. Is there an admission sheet that's filled out
17 every time a juvenile comes to the facility?
18 A Every time they leave and return, yes.
19 Q Okay. And you filled that out at 3:55, is that
20 correct? 1:37PM
21 A Yes, the bottom half.
22 Q What do you mean "the bottom half?" Did you fill the
23 whole thing out or just the bottom half?
24 A The whole thing, the whole thing.
25 Q Okay. And I noticed that in the first form that's 1:37PM

1 Q Right. But what would it actually be used for? 1:55PM

2 MR. WOOD: Objection, asked and answered.

3 THE REPORTER: I'm sorry, who said that?

4 MR. WOOD: I did.

5 A I have no idea. It would be filled out and left in 1:55PM
6 the book.

7 BY MR. SMOLEN:

8 Q And that's all you knew about it?

9 A That's all I knew about it.

10 Q Okay. There was no protocol that you were aware of 1:55PM
11 other than having the form filled out?

12 A That is it.

13 Q Okay. It didn't trigger any kind of response from
14 you?

15 A That everyone needs to be questioned about it. 1:56PM

16 Q Okay. Short of everyone having to fill it out,
17 nothing about that triggered any kind of reaction that you
18 needed to take, it was just important for you to fill it
19 out and put it in the book?

20 MR. WOOD: Object to the form. 1:56PM

21 BY MR. SMOLEN:

22 Q Yes?

23 A Yes, sir.

24 Q Okay. When did you fill out, when do you recall
25 doing that suicide risk assessment with Mr. Wood? 1:56PM

1 statement? 2:10PM

2 A Yes.

3 Q Okay. If a juvenile presented to the facility, okay,
4 and showed increased risk of suicide ideation, would you
5 go report it to Joe Washington? 2:10PM

6 MR. LeBLANC: Object to the form of the
7 question.

8 A To any supervision.

9 BY MR. SMOLEN:

10 Q Okay. Including Joe Washington? 2:10PM

11 A Yes.

12 Q And is that why you went to Mr. Washington -- or were
13 going to go to Mr. Washington as it pertained to
14 Mr. Woods?

15 A Yes. 2:10PM

16 Q Okay. Because you knew he was at an increased risk
17 for suicide, correct?

18 MR. LeBLANC: Object to the form.

19 A I didn't know that. I felt like he was answering
20 those questions just being, how would you say, 2:10PM
21 untruthfully, trying to get me to say, oh, yeah, this is
22 what he's saying. Like I say, he was being sarcasm.

23 BY MR. SMOLEN:

24 Q Okay. You felt like he was not being truthful --

25 A Yes. 2:11PM

1 his whole demeanor was, period. 2:14PM

2 Q Right. You just testified you wanted to see if
3 Mr. Washington could help you because you couldn't tell if
4 Mr. Woods was telling you the truth or not, right?

5 MR. ARTUS: Objection, leading. 2:14PM

6 MR. LeBLANC: Object to the form.

7 BY MR. SMOLEN:

8 Q Correct?

9 A Yes.

10 Q Okay. What did you think Mr. Washington would be 2:14PM
11 able to do as far as ascertaining whether or not Mr. Woods
12 was telling you the truth about the information on the
13 form?

14 A Go over the questions again with him.

15 Q With him? 2:14PM

16 A Yes.

17 Q Okay. And you forgot to do this?

18 MR. ARTUS: Objection, leading.

19 BY MR. SMOLEN:

20 Q Is that correct? 2:14PM

21 A I never got ahold of Joe.

22 Q Did you try?

23 A Yes.

24 Q Okay. Tell me about the steps you took to try to get
25 ahold of Mr. Washington. 2:14PM

1	A	Phone call.	2:14PM
2	Q	Okay. And where did you try to call him at?	
3	A	The next day when I was at home, off my cell phone.	
4	Q	Okay. On the 15th?	
5	A	Yes, that morning.	2:15PM
6	Q	Okay. You made a call to Mr. Washington from your	
7		cell phone?	
8	A	(Nods head.)	
9	Q	Is that correct?	
10		MR. ARTUS: Objection, leading.	2:15PM
11	A	I believe so.	
12	BY MR. SMOLEN:		
13	Q	Okay.	
14	A	I believe that's how it happened.	
15	Q	You had done the intake that night, correct?	2:15PM
16		MR. ARTUS: Objection, leading.	
17	A	Yes.	
18	BY MR. SMOLEN:		
19	Q	Okay. Why did you wait to call Joe Washington until	
20		the next day to ask him about the suicide risk assessment	2:15PM
21		form?	
22	A	Trying to keep up with the program and what was at	
23		task, what was at hand.	
24	Q	Were you concerned about the form?	
25	A	That specific form, no. I was concerned about the	2:15PM

1 A I can't remember all of it. 2:16PM

2 Q Why don't you just give me any of it?

3 A I remember training, but I don't -- I can't remember
4 none of it. I remember attending the training, but I
5 don't remember -- I can't repeat none of what happened nor 2:17PM
6 what was said.

7 Q What were you supposed to do if you felt like one of
8 the kids at the facility might be suicidal?

9 A I don't know. I never had to deal with that
10 situation. 2:17PM

11 Q Well, you've had to deal with it at least once.

12 MR. LeBLANC: Object to the form.

13 BY MR. SMOLEN:

14 Q Right?

15 MR. LeBLANC: Object to the form. 2:17PM
16 Argumentative. Misstates his testimony.

17 A I've heard of it. I've never had to deal with it
18 personally.

19 BY MR. SMOLEN:

20 Q Okay. What have you heard of? 2:17PM

21 A As long as they're not threatening themselves,
22 there's no need to -- at this precise time, saying I'm not
23 going to hurt myself right now, there's no need for you
24 put them in suicide risk.

25 Q Okay. 2:18PM

1	BY MR. SMOLEN:	2:40PM
2	Q Let's look back at Exhibit 1, if you would, please.	
3	Let's look at 14 of 22.	
4	MR. ARTUS: What exhibit are we on?	
5	MR. SMOLEN: Exhibit 1.	2:41PM
6	MR. ARTUS: All right.	
7	BY MR. SMOLEN:	
8	Q Do you know who Daniel Sallis is?	
9	A Yes, sir.	
10	Q Okay. Who is Daniel Sallis?	2:41PM
11	A He was a resident.	
12	Q Okay. Do you have a problem with him?	
13	A Not a personal problem, no.	
14	Q Did you have any problems with him?	
15	A With program -- program rules, yes, sir.	2:41PM
16	Q Okay. Did he want to take a long time to fill out	
17	the forms; what were the types of problems that he had?	
18	MR. LeBLANC: Object to the form.	
19	A Not following program rules, talking without	
20	permission and stuff like that.	2:42PM
21	BY MR. SMOLEN:	
22	Q You would agree with me it's critical to follow the	
23	rules of the program, right?	
24	MR. ARTUS: Objection, leading.	
25	A I didn't expect him to follow the rules. They're	2:42PM

1	A	That's what it says on paper.	3:17PM
2	Q	What did you do to check on Mr. Woods when you took	
3		over the shift?	
4	A	Mr. Woods was coming in from court on that day. He	
5		was not in his room.	3:17PM
6	Q	But what are the purposes of the daily notes?	
7	A	Allowing a line of communication.	
8	Q	To let the oncoming staff know what had been going on	
9		during the previous shift, correct?	
10	A	Uh-huh.	3:18PM
11	Q	Okay. Yes?	
12	A	Yes.	
13	Q	You're told that Resident 1 was not feeling well and	
14		wanted to stay in his room, correct?	
15	A	Yes.	3:18PM
16	Q	What did you do to follow up on that?	
17	A	Well, he returned back from court.	
18	Q	Okay.	
19	A	I asked him how was his day going and he told me it	
20		was going okay. I asked him what did he want to do, if he	3:18PM
21		wanted to go on the program and he said no, he wanted to	
22		go in his room.	
23	Q	You write, "Billy cooperated in the program below	
24		average. He stayed in his room the whole shift and	
25		refused to come out," correct?	3:18PM

1	A	Yes.	3:18PM
2	Q	Was he locked in his room?	
3	A	Yes.	
4	Q	Okay. If he wanted to come out, how would he have	
5		come out?	3:18PM
6	A	There's an intercom in his room.	
7	Q	Okay. And what would he have done?	
8	A	Hit the button and talked to the control room and	
9		requested to come out.	
10	Q	Okay. And did you go over that with Mr. Woods how	3:19PM
11		that process worked?	
12	A	Yes.	
13	Q	And who was checking on Mr. Woods when he was	
14		confined in his room during your entire shift?	
15		MR. GIBBS: Now, we're on the 15th?	3:19PM
16		MR. SMOLEN: We've been on the 15th.	
17	A	In my understanding, no one.	
18	BY MR. SMOLEN:		
19	Q	When did you write this handwritten note that says,	
20		"Billy cooperated in the program below average. He stayed	3:19PM
21		in his room the whole shift and refused to come out."	
22	A	I answered that a while ago, between the time I got	
23		there and dinner, which is around 5:30.	
24	Q	Why did you put that he stayed in there his whole	
25		shift?	3:20PM

1 A I would write certain parts of my daily notes in 3:20PM
2 advance.

3 Q Right. And this is one of those things you wrote,
4 correct?

5 A Yeah. 3:20PM

6 Q So you wrote in advance that Billy Woods wasn't
7 cooperating in the program and stayed in his room the
8 whole shift and refused to come out before that actually
9 happened?

10 A Yes. 3:20PM

11 Q Why?

12 A Trying to stay ahead of my paperwork.

13 Q Okay. But you just scored this kid a one without
14 even giving him an opportunity to participate in the
15 program. Why would you do that? 3:20PM

16 A I can't recall why I gave him a one on that specific
17 time.

18 Q That's the lowest you could give him before he's even
19 done anything during your shift, correct?

20 MR. ARTUS: Object to form. 3:20PM

21 BY MR. SMOLEN:

22 Q Did you think that was fair?

23 MR. LeBLANC: Object to the form.

24 A If you don't participate in the program, the way I
25 was trained, if you refuse to participate in the program, 3:21PM

1 you give -- some people give zeroes. I don't know why 3:21PM

2 they -- they give a zero with a slash through it.

3 Q Okay. But you filled this out in advance?

4 A Yes.

5 Q You lied and said that he refused to participate in 3:21PM

6 the program during your entire shift when that, in fact,

7 wasn't true because you filled it out --

8 A Yes.

9 Q -- before your shift started?

10 MR. ARTUS: Object to the form. 3:21PM

11 BY MR. SMOLEN:

12 Q Correct?

13 A Not before my shift started.

14 Q Okay.

15 A Before the shift was completed, yeah. 3:21PM

16 Q Before the shift was completed is when you filled it

17 out?

18 A Yeah.

19 Q Okay. How long prior to Mr. Woods' suicide did you

20 fill it out? 3:21PM

21 MR. LeBLANC: Objection, it's been asked

22 and answered.

23 A I gave you the answer twice.

24 BY MR. SMOLEN:

25 Q When? 3:21PM

1 BY MR. SMOLEN: 3:22PM

2 Q "Billy cooperated in the program below average. He
3 stayed in his room the whole shift and refused to come
4 out." You filled that out an hour to an hour and a half
5 into the shift? 3:22PM

6 A Yes.

7 Q That was a lie, correct?

8 MR. ARTUS: Object to the form.

9 MR. WOOD: Object to form.

10 A If that's how he did it, it's your opinion, but I was 3:23PM
11 just trying to fill out my paperwork in advance.

12 BY MR. SMOLEN:

13 Q Before it even happened?

14 A And I -- yes.

15 Q Okay. And you don't think that's a lie? 3:23PM

16 A That's what happened when he arrived. He wanted to
17 go to his room. He decided to go to his room. He had
18 below average then. That's how the point system was
19 explained to me.

20 Q We know that Billy was going to be his room the 3:23PM
21 entire shift because you filled it out in the advance.

22 A Yes.

23 Q Correct?

24 A That's what he wanted, to go to his room just like
25 yesterday, the 14th. 3:23PM

1 Q That's not the only false piece of information you 3:23PM
2 put on this form, is it?

3 A No, sir.

4 Q Why don't you tell the jury all the other false
5 information that you filled out on this form? 3:24PM

6 MR. ARTUS: Object to form.

7 A The 15-minute checks.

8 BY MR. SMOLEN:

9 Q Okay. Those were falsified. Other than the
10 15-minute checks, what were falsified? 3:24PM

11 A I believe that's all I done that was falsified.

12 Q Just the shift supervisor statement and the 15-minute
13 checks?

14 A Yes, sir.

15 Q Okay. Now, why did you try to preemptively fill out 3:24PM
16 your daily note forms? What was the benefit of doing that
17 for you?

18 A I did that quite a bit just to stay ahead. And then
19 you see how there's actually a couple of lines there. If
20 anything else happened, I would fill that in. But that's 3:25PM
21 how all my, my, my daily notes started out.

22 Q They were all falsified and they were all 15-minute
23 checks filled out in advance?

24 A Yes.

25 Q Okay. Were your supervisors aware of that? 3:25PM

1 A You said all? 3:25PM

2 Q I thought you said that you, that on almost all of
3 your forms you would do that.

4 A I would do that quite a bit.

5 Q Quite a bit? 3:25PM

6 A Not this day.

7 Q Well, this day we know you did it?

8 A Yes.

9 Q Right? You said you would do that, that would be
10 your practice to do most of the time anyway? 3:25PM

11 A To try to stay ahead of my paperwork, yes.

12 Q Okay. And did your supervisors ever have a problem
13 with you falsifying and filling out in advance your forms?

14 A They didn't know.

15 MR. LeBLANC: Object to the form. 3:25PM

16 A They never knew.

17 BY MR. SMOLEN:

18 Q They never new. Okay. I mean, the whole facility is
19 monitored by video, correct?

20 A Yes. 3:26PM

21 Q I mean, there's someone in the control room watching
22 the video, making -- they can see that you're not doing
23 the checks, correct?

24 A Yes.

25 MR. LeBLANC: Object to the form. 3:26PM

1 BY MR. SMOLEN: 3:26PM

2 Q Okay. Were you ever disciplined for that?

3 A No.

4 Q Did you train the other subordinate employees after

5 you became a supervisor to complete their forms in a 3:26PM

6 similar fashion?

7 A No.

8 Q Okay. Is that something only you thought you were

9 allowed to do?

10 A Nobody -- as far as me, I was the only one that did 3:26PM

11 this. I never trained no one to do this or fill out daily

12 notes. They were all trained by someone else.

13 Q So when you sat through Brandon Miller's deposition

14 and he said that, "I thought," he thought you were going

15 to be the guy to train him, you weren't the guy that was 3:26PM

16 supposed to train him?

17 A No, I wasn't the guy training him.

18 Q Okay. Did you train any staff when you were there as

19 a supervisor?

20 A No. 3:27PM

21 Q Okay.

22 A Not that I remember, no.

23 Q Okay. So yesterday's point, looking back at Exhibit

24 24. Are you there?

25 A Uh-huh. 3:27PM

1 Q Why did you put "not applicable?" 3:27PM

2 A The way -- I don't know who drew those lines there
3 and I don't know if who put not applicable, but I was
4 explaining. Okay, first couple days they're there, they
5 really -- the first day they're there, they don't get 3:27PM

6 scored because they're getting -- they've got to get
7 accustomed to the point system. After you explain the
8 point system to them, that's when they start getting
9 points taken. That's how I was trained. For the first
10 day, I believe -- I don't believe I took points from him. 3:27PM

11 Q You and I agree that a lot of the information you put
12 on this form was falsified, correct?

13 MR. LeBLANC: Object to the form.

14 A A lot of it.

15 BY MR. SMOLEN: 3:28PM

16 Q Okay. How -- I want you to tell the jury why they
17 should believe you, okay, as it pertains to the other
18 forms that you allegedly filled out, that those were done
19 in accordance with policy and procedure.

20 A Could you ask that again? 3:28PM

21 Q Sure. You and I already are on the same page that
22 you falsified a lot of information on this form, correct?

23 A Yes.

24 Q Okay. I want you to tell the jury --

25 A False -- 3:29PM

1 pin it on me, but I never done this. 3:43PM

2 Q No, no, I understand. But you had an opportunity to
3 appeal these findings, which we've covered earlier in the
4 deposition, right?

5 A Yes. 3:43PM

6 Q That was the two-page handwritten response that you
7 and your wife prepared, correct?

8 MR. LeBLANC: Object to the form.

9 A That I prepared and she --

10 BY MR. SMOLEN: 3:43PM

11 Q Yeah, and then she double-checked it with you, right?

12 A Yes.

13 Q Okay. Let's go to MCCOYS 64, the second page.
14 Number 1, "The Daily Notes sheet for resident Billy Woods
15 was preemptively filled out for the entire 3:00 p.m. to 3:43PM
16 11:00 p.m. shift on 12-15-16. Woods' body was discovered
17 in his cell at 8:34 p.m., after Woods had not been checked
18 for approximately two hours and two minutes. Checks were
19 initialed through 10:45 p.m. as having been completed."
20 That's a correct statement? I read that correctly, yes? 3:43PM

21 A You read that correctly.

22 Q Okay. And based on your own knowledge of the events,
23 that is also true, correct?

24 A Yes.

25 Q Okay. Number 3, "The Daily Note sheet for Woods had 3:44PM

1 initials for Miller and Lang at 6:45, 7:00 p.m., 7:15 3:44PM

2 p.m., 7:30 p.m., 7:45 p.m., 8:00 p.m., 8:15 p.m. and

3 8:30 p.m. A review of the video showed none of these

4 checks were completed by any staff." Do you have any

5 reason to dispute that finding? 3:44PM

6 A No.

7 Q It's true, is it not, that both you, Mr. Miller and

8 Ms. Winkle were all outside of the area of Woods' rooms at

9 multiple and various times during the times in question,

10 but that the checks were not completed? 3:45PM

11 A Yes, yes.

12 Q Number 3, "The Daily Note sheets for the other nine

13 residents in the facility did not have 15-minute checks

14 documented from 8:00 p.m. to 10:45 p.m." Were you aware

15 of that? 3:45PM

16 A Yes.

17 Q So not only were the checks not being done on Billy

18 Woods, they weren't being done on the other nine

19 residents, correct?

20 MR. LeBLANC: Object to the form. 3:45PM

21 A There was no need to check on them, they were -- they

22 were in the program.

23 BY MR. SMOLEN:

24 Q They weren't on lockdown from 8:00 p.m. to 10:45

25 p.m.? 3:45PM

1 Q There's an outside window? 3:53PM

2 A Yes.

3 Q Okay. Does it get daylight?

4 A Yes.

5 Q Okay. This is at night though, right? 3:53PM

6 A Yes, sir.

7 Q Nighttime?

8 A Yes.

9 Q There's no light in this room. You don't even enter

10 the room completely. Tell me how you knew that the sheet 3:54PM

11 around Billy's neck, that the knots you wouldn't be able

12 to untie those? Tell the jury how you knew that.

13 MR. LeBLANC: Object to the form of the

14 question.

15 A I didn't know where to start or how to end it so I 3:54PM

16 just looked at the knot and the light from behind me was

17 shining in, right in on it.

18 BY MR. SMOLEN:

19 Q And you didn't even take a chance to go try to undo

20 it? 3:54PM

21 A No, sir.

22 Q You didn't check a pulse, correct?

23 A No, sir.

24 Q You rendered zero aid, correct?

25 A At that time, yes. 3:54PM

1 Q Okay. Do you have children? 3:54PM

2 A Yes, sir.

3 Q Okay. If you walked in on one of your children in
4 that condition, would you have behaved the same way?

5 MR. LeBLANC: Object to the form. 3:55PM

6 MR. WOOD: Same objection.

7 A I can't say that I would have. I don't know how I
8 would act.

9 BY MR. SMOLEN:

10 Q You wouldn't even go check on them? 3:55PM

11 MR. LeBLANC: Object to the form.

12 MR. WOOD: Same objection.

13 A I don't know how I would act.

14 BY MR. SMOLEN:

15 Q You never touched his body the first time you saw him 3:55PM
16 hanging there, correct?

17 A Correct.

18 Q Okay. You never attempted to get him down, correct?

19 A Correct.

20 Q Okay. You never checked for a pulse? 3:55PM

21 MR. LeBLANC: Objection, asked and
22 answered.

23 BY MR. SMOLEN:

24 Q Right?

25 MR. LeBLANC: Same objection, asked and 3:55PM

1 answered. 3:55PM

2 A I told you that.

3 BY MR. SMOLEN:

4 Q Okay. And you said that his body was purple when you
5 saw him in the dark room there? 3:56PM

6 MR. LeBLANC: Object to the form.

7 A It was not normal. I know it was palish, purple,
8 bluish and blank. It was just -- I can't, I can't
9 describe exactly how it was, but it wasn't normal.

10 BY MR. SMOLEN: 3:56PM

11 Q Okay. Had you ever seen a dead body before?

12 A I've seen a lot of funerals, yeah.

13 Q Okay. Didn't any part of you think I need to jump in
14 there and help save this kid?

15 A Sure. 3:56PM

16 Q But you didn't?

17 A I couldn't. I panicked. I didn't know what to do at
18 that point. I had to clear the room.

19 (Plaintiff's Exhibit No. 49 was marked for
20 identification.) 1:14PM

21 Q I'm going to hand you what we have previously marked
22 as Exhibit 49 to your deposition. It's the EMS records.

23 MR. LeBLANC: Do you have an extra copy of
24 that one?

25 MR. SMOLEN: I know we've handed it out 3:57PM

1 have been calling? 4:08PM

2 A Just panicking. I don't remember who I called.

3 Q And where was Billy when you were smoking cigarettes
4 calling all these people?

5 MR. LeBLANC: Object to the form. 4:08PM

6 A Where he was at, in his room.

7 BY MR. SMOLEN:

8 Q Still hanging there with the sheet around his neck?

9 A Yes, sir.

10 Q Let's look at Exhibit 1 page 9 of 22. 4:09PM

11 A Can I move this? I think it's under there. It might
12 be under there. You say 1?

13 Q Exhibit 1, page 9 of 22.

14 A Exhibit 1. Exhibit 1, 2.

15 Q Do you need me to find it for you? 4:09PM

16 A No, I'm good.

17 Q I'm on page 9 of 22.

18 A "9 of 22."

19 Q And I'm looking now right at the center of the page
20 and it says, "Lang said he went to take a snack to Woods." 4:11PM
21 Are you there on page 9?

22 A Page 9. Where is it again? I can't find it.

23 Q Let me show you. Right there. Are you there?

24 A Yes.

25 Q "Lang said he went to take a snack to Woods. He 4:11PM

1 A Sounds familiar. 4:14PM

2 Q "When asked why he did not attempt to remove the

3 sheet, Lang said, "I couldn't do it.'" What did you mean

4 by that?

5 MR. LeBLANC: Objection, it's been asked 4:14PM

6 and answered. Go ahead.

7 A I never had anything to cut him down with or I didn't

8 know how it was tied and I didn't want to put any more

9 pressure on him than was already on him.

10 BY MR. SMOLEN: 4:14PM

11 Q Why were you concerned about putting more pressure on

12 him?

13 MR. LeBLANC: Object to the form.

14 A I don't know. It was just a thought in my head at

15 the time. 4:14PM

16 BY MR. SMOLEN:

17 Q That if you did something more that could cause more

18 pressure, it might injure him more?

19 MR. LeBLANC: Object to the form.

20 A I don't know, tamper with evidence, I can't tell you 4:14PM

21 why I thought that or why I said that. I assumed it was

22 going to be a crime scene and no need for me to be

23 touching anything.

24 BY MR. SMOLEN:

25 Q It goes on to say that, "Lang said he told staff 'I 4:15PM

1 can't do CPR' and added 'I couldn't do nothing.'" Do you 4:15PM
2 recall making those statements?

3 A I do recall saying some of that.

4 Q Okay. Why did you tell people you couldn't do CPR?

5 A I couldn't even think right at the moment. 4:15PM

6 Q Well, I mean, you were able to go have a staff
7 meeting; you were able to think to put kids on lockdown,
8 you were able to go have some cigarettes; and you were
9 able to make some phone calls, right?

10 A Yes, sir. 4:15PM

11 Q I mean, you weren't in some kind of catatonic state,
12 were you?

13 A I was devastated, devastated.

14 Q You were devastated?

15 A I couldn't remember nothing. I couldn't think of 4:16PM
16 nothing. I couldn't do nothing right.

17 Q I mean, you could do things, you did things?

18 A I couldn't think.

19 Q Okay. But the things you thought to do were go have
20 a staff meeting, put the other juveniles on lockdown, tell 4:16PM
21 the staff to call 911, go have some cigarettes, go call a
22 bunch of people, call Mr. Washington, right? These are
23 all things you thought to do. So you were thinking,
24 right?

25 A I believe so, if that's what you're saying. 4:16PM

1 Q You just didn't think to attempt to -- 4:16PM

2 A I didn't know what to do in that situation.

3 Q -- render aid?

4 A In that situation, I didn't know what to do.

5 Q Well, didn't your training tell you what to do? 4:16PM

6 A My training, it was months before that. I forgot
7 half of that stuff.

8 Q Do you feel like you needed to be trained in this
9 situation to know that you needed to at least attempt to
10 help out this person? 4:17PM

11 MR. LeBLANC: Object to the form of the
12 question, calls for speculation.

13 A I didn't know what to do.

14 MR. ARTUS: What was the answer? I
15 couldn't hear it. 4:17PM

16 A I didn't know what to do.

17 BY MR. SMOLEN:

18 Q "Lang said he had not previously dealt with a
19 resident dying, although he had a situation where a
20 resident had a seizure and was bleeding from his mouth. 4:18PM
21 Lang said he turned the resident on his side and ensured
22 that 911 was called."

23 A That was a complete different situation.

24 Q Okay. But you had enough state of mind to call 911
25 then? 4:18PM

1 Q There's rules at the facility, at least written 4:23PM
2 rules, that state the staff aren't to make fun of the
3 residents. You know that, right?

4 A I'm pretty sure, yes.

5 Q Okay. And do you know why it's important to not make 4:24PM
6 fun of the juvenile residents?

7 A It's bullying, picking with people, you don't do
8 that.

9 Q Okay. And why don't you do it?

10 A Same reason why my mom told me not to do it, it's not 4:24PM
11 right. You treat people how you want to be treated.

12 Q Okay. And you understand that these children that
13 are in there are also more susceptible because of the fact
14 that they're in it, through any kind of -- they're already
15 sad they're in a juvenile facility, right? 4:24PM

16 MR. LeBLANC: Object to the form of the
17 question, speculation, lack of foundation.

18 MR. SMOLEN: Well, right. That's a good
19 point, Thomas.

20 BY MR. SMOLEN: 4:24PM

21 Q Do you do any kind of assessment to determine --

22 A No.

23 Q -- what the state of mind is of the child when they
24 enter the facility?

25 A I've never been trained on how to read someone's 4:24PM

1 mind. 4:25PM

2 Q Well, I didn't ask about reading someone's mind. I'm

3 talking about --

4 A I'm trying to figure out what you're talking about.

5 Q Yeah, looking for indication that a child might be 4:25PM

6 having mental health issues.

7 A I'm not a counselor.

8 Q You've not had any training in it?

9 A I'm not a counselor.

10 Q That's not my question. Have you had any training in 4:25PM

11 it?

12 A No, not that I know of.

13 (Plaintiff's Exhibit No. 33 was marked for

14 identification.)

15 Q I'm going to have you jump to Exhibit 33. Are you 4:25PM

16 there?

17 A Yes, sir.

18 Q I'm at Lang 49. This was from your employment file.

19 MR. ARTUS: Is this a new exhibit? We only

20 have one copy. 4:26PM

21 MR. WOOD: What is it?

22 MR. SMOLEN: It's just that policy and

23 procedure manual -- or it's the training folder.

24 MR. ARTUS: It's the personnel file?

25 MR. SMOLEN: Yeah, it's from his personnel 4:26PM

1 A I believed he was already deceased when I laid my 4:56PM
2 eyes on him.

3 Q Again, that was just based on what you observed in
4 that dark room from the doorway, correct?

5 MR. LeBLANC: Object to the form. 4:56PM

6 MR. ARTUS: Object to form.

7 A I believed him to be deceased when I first laid my
8 eyes on him.

9 BY MR. SMOLEN:

10 Q You didn't consider it to be a medical emergency? 4:57PM

11 MR. ARTUS: Objection.

12 A I believed it to be way more critical than that, than
13 a medical emergency.

14 BY MR. SMOLEN:

15 Q My question is real straightforward. When you walked 4:57PM
16 down that hall and opened that room, you did not believe
17 it to be a medical emergency. That's your testimony?

18 A I believed he was already dead.

19 Q Tell the jury how long he had been dead for.

20 MR. LeBLANC: Object to the form, lack of 4:57PM
21 foundation.

22 A I can't tell you that.

23 BY MR. SMOLEN:

24 Q Right. You have no foundation for that, do you?

25 MR. ARTUS: Object to form. 4:57PM

1 A I can't tell you, I'm not a medical examiner. 4:57PM

2 BY MR. SMOLEN:

3 Q Right. You're not -- you have no medical training at
4 all, correct?

5 A No, sir. 4:58PM

6 Q Tell the jury what steps you knew that you could do
7 to ensure that someone was or was not dead.

8 MR. LeBLANC: Object to the form.

9 A I can't recall.

10 BY MR. SMOLEN: 4:58PM

11 Q Well, could you have recalled it back in December of
12 2016?

13 A Not in that state of mind, no, I couldn't think
14 right.

15 Q Okay. How about right before Billy was -- you found 4:58PM
16 his body? Did you know what steps you could take to
17 determine if someone was still alive or not?

18 A I don't know why since I went over those steps and I
19 don't remember all of them.

20 Q How about any of them? 4:58PM

21 A I don't remember all of them.

22 Q Can you give me any?

23 A The ones that I did, clear the scene, tell my staff
24 members to call 911.

25 Q No, I'm talking about what steps you could have taken 4:58PM

1 to determine if somebody was still alive or not. 4:58PM

2 A I don't know. I don't know how to determine that.

3 Q Okay. You wouldn't have even known how to determine
4 that?

5 A No. 4:59PM

6 Q Let's look at -- and then I think we'll be finished
7 up here. Let's look at Exhibit 2. I'm at OCA/DHS
8 Investigative File 31, page 289. Last paragraph. "As for
9 the young man and my interactions, we never had a physical
10 contact. We did have some words over what the program 5:00PM
11 rules were and what was expected. He did not like or
12 agree with. I never wanted to hurt the young man. I'm
13 truly sorry for the loss for his family. God have mercy
14 on his soul." That's what you wrote in your appeal to the
15 DHS findings of abuse and neglect, correct? 5:00PM

16 A Yes, sir.

17 Q When you said, "We had some words over what the
18 program rules were and what was expected," what do you
19 mean you had "some words?"

20 A We had disagreements of what he would comply to and 5:01PM
21 what was expected of him to do.

22 Q It wasn't an argument?

23 A No, it was just he said he wasn't going to do that.
24 He replied he wasn't going to do that so I said, "Where do
25 you want to go, wing or your room." 5:01PM

1 Q Sure. We know that the room was dark, correct? 5:18PM
2 MR. LeBLANC: Object to the form.
3 A I don't recall that.
4 BY MR. SMOLEN:
5 Q Well, we can see the video. The room is dark. 5:18PM
6 MR. LeBLANC: Object to the form.
7 A Like I said, the light over my shoulder could have
8 easily well lit up that room from my point of view.
9 BY MR. SMOLEN:
10 Q Okay. Well, the lights weren't on in the room, would 5:18PM
11 you at least agree on that?
12 A I guess so.
13 Q Okay. And despite the lights not being on in the
14 room, despite the fact that there was a wall there on the
15 left-hand side, and despite the fact that there was a 5:18PM
16 metal sink, you were still able to see what you told
17 investigators you saw when you walked in that room; that's
18 your testimony?
19 A Yes.
20 Q Okay. Can you just, real quick, can you stand up and 5:18PM
21 show me real quick when you say you nudged him with your
22 foot? Can you show the jury what that looked like?
23 A Should I stand up and show you?
24 Q Yeah, because I've got the video, I want to see just
25 so I can kind of have an understanding of how you -- 5:19PM

1	A	With my foot?	5:19PM
2	Q	Yeah, just stand up and show the jury how you nudged	
3		Mr. Woods' body.	
4	A	(Complies with request).	
5	Q	Kind of just kicked him, like tapped him with your	5:19PM
6		foot?	
7	A	To feel how stiff he was.	
8		THE REPORTER: I'm sorry. I didn't hear	
9		what you said.	
10	A	To feel how stiff he was.	5:19PM
11	Q	To feel how stiff he was.	
12	A	Yeah, and see if he had any response or moved. That	
13		may have been the second, when I was in there with	
14		Brandon.	
15	Q	Right. We know you didn't do it the first time	5:19PM
16		because you didn't go in the room?	
17		MR. LeBLANC: Object to the form.	
18		BY MR. SMOLEN:	
19	Q	Beyond what the video shows, right?	
20	A	Yes.	5:19PM
21	Q	Okay.	
22	A	So just -- but I could see what I saw --	
23	Q	I understand.	
24	A	-- from that angle.	
25	Q	Okay. We're talking about the foot nudge though.	5:20PM

1 A I believe that was the second time I was in the room. 5:20PM

2 Q Okay. And the reason you nudged him was why?

3 MR. LeBLANC: Object to the form.

4 A I don't know.

5 MR. LeBLANC: Asked and answered. 5:20PM

6 BY MR. SMOLEN:

7 Q I thought -- go ahead. I thought it was because you
8 thought you might -- to see if he was still moving?

9 A To see if he would move or how stiff he was.

10 Q Why, if you felt like it was important to see if you 5:20PM
11 were going to nudge him with your foot the second time to
12 see if he would still move, why didn't you go in and check
13 on him the first time when it was a lot closer to the time
14 that you found him?

15 A I perceived him to be deceased the first time I went 5:20PM
16 in.

17 Q Then why did you kick a dead body?

18 A I didn't kick him.

19 MR. LeBLANC: Object to the form of the
20 question. 5:20PM

21 BY MR. SMOLEN:

22 Q Why did you nudge a deceased body with your foot if
23 you already knew that the person was dead?

24 MR. LeBLANC: Objection, it's been asked
25 and answered. You're getting argumentative, Dan. Move 5:20PM

1 on, please. It's been asked and answered. Next question. 5:20PM

2 MR. SMOLEN: No, it hasn't been answered.

3 MR. LeBLANC: It has been answered three
4 times.

5 BY MR. SMOLEN: 5:21PM

6 Q If you thought -- you've testified that you thought
7 he would -- that maybe he would move if you nudged him
8 with your foot. You testified about that, right?

9 MR. LeBLANC: Object to the form, it's been
10 asked and answered. 5:21PM

11 BY MR. SMOLEN:

12 Q Yes?

13 A I nudged him to see how stiff he was.

14 Q Okay. So now your testimony is you just nudged him
15 to see how stiff he was? 5:21PM

16 MR. WOOD: Objection, form.

17 MR. LeBLANC: Actually, that was his
18 testimony about four questions ago.

19 MR. SMOLEN: Well, the good news, Thomas,
20 is we've got a court reporter here that I'm sure did a 5:21PM
21 great job taking it all down and a video.

22 MR. LeBLANC: I'm not -- I'm so glad.

23 MR. SMOLEN: Me, too.

24 MR. LeBLANC: Yeah. So you're ready to
25 move on now. That's good. 5:21PM

1 ability, yes, sir.

2 Q (By Mr. Wood) Now later on in that
3 paragraph it says: When the juvenile is in his
4 or her room, they are monitored by intercom and
5 visually observed every five minutes; do you see
6 that?

7 MR. LEBLANC: Object to the form. I
8 don't know that it's clear that if there's a
9 suicide watch that's what's required, the reason
10 for my objection.

11 MR. WOOD: Okay.

12 THE WITNESS: If he was on suicide
13 watch? I was -- the only thing I remember is 15
14 minutes.

15 Q (By Mr. Wood) Okay.

16 A Five minutes, I never was told that.

17 Q Now if you had a juvenile that had --
18 that tells you, I'm going to kill myself --

19 A Yes, sir.

20 Q -- would you have monitored that person
21 closely?

22 MR. SMOLEN: Object to the form.

23 THE WITNESS: I would have went to
24 my supervisor and got better advice on the
25 situation.

1 Q Have you ever heard of that name before,
2 Brian --

3 A No, sir.

4 Q -- Sparks? Okay. You came on at the
5 3:00 p.m. to 11:00 p.m. shift, correct?

6 A Yes, sir.

7 Q Okay. You were told -- or were you told
8 by Anthony Cornwell that he thought Billy Woods
9 had mental health issues?

10 A No, not directly, no.

11 Q Okay. Were you indirectly told that?

12 A No, sir.

13 Q Did you see that during shift change
14 when you came on and you start to complete your
15 daily note on the same page?

16 A No, I didn't read it. I just started on
17 mine.

18 Q Okay. What's the importance of having
19 the daily note from the 7:00 a.m. to 3:00 p.m.
20 shift on the same page as the 3:00 p.m. to 11:00
21 p.m. note?

22 A Because there's three different shifts
23 in one day.

24 Q Right. But would you ever read the
25 previous note so that you could understand what

1 situation you were dealing with when you began
2 your shift?

3 A I would get the information through
4 shift change. I would hardly ever read it.

5 Q Okay. But you don't recall Mr. Cornwell
6 ever telling you that he thought Billy Woods had
7 mental health issues?

8 A No, sir.

9 Q And as far as whether or not you knew
10 that, it's your testimony that you just simply
11 didn't read the note above?

12 A Yes, sir.

13 Q It's fair to say that at the time you
14 did his intake paperwork, Mr. Cornwell had
15 already identified Billy as having mental health
16 issues, correct?

17 MR. LEBLANC: Object to the form of
18 the question. Object to the form of the
19 question.

20 THE WITNESS: I can't speak for
21 Mr. Anthony Cornwell.

22 Q (By Mr. Smolen) Well, we know that -- I
23 mean, he signs this --

24 A Yes, sir.

25 Q -- before you make your entry, right?

1 A Yes, sir.

2 Q We know he identified Billy on the
3 morning shift to have mental health issues,
4 correct?

5 MR. LEBLANC: Object to the form.

6 THE WITNESS: That's what the paper
7 says.

8 Q (By Mr. Smolen) Okay. Had you read
9 that note, would you have approached your intake
10 any differently?

11 MR. LEBLANC: Object to the form.
12 Calls for speculation.

13 THE WITNESS: I would have
14 questioned Mr. Anthony.

15 Q (By Mr. Smolen) And what would you have
16 asked him about?

17 A What did he mean by that? Why -- why
18 would you say that?

19 Q And why would it have been important for
20 you to talk to Mr. Anthony about that?

21 A Because he seemed to write it down, but
22 he didn't say it in shift change but he wrote it
23 down.

24 Q Okay. You don't recall him telling you
25 that during shift change?

1 Q Okay.

2 A -- at that point.

3 Q Let's look back at Exhibit 33 real
4 quick.

5 A 32?

6 Q 33. Are you there?

7 A Yes, sir.

8 Q Let's look at Lang 4, which was a
9 question Mr. Wood -- or a page Mr. Wood talked
10 to you about under Forty Hours Observing.

11 A I might have misplaced that one. I have
12 3 and 5.

13 MR. LEBLANC: We can sort it out
14 later. Here's Page 4.

15 MR. SMOLEN: Thomas, I have some --
16 I've got an extra copy here.

17 THE WITNESS: I've got it -- I've
18 got it here.

19 MR. LEBLANC: You got it?

20 Q (By Mr. Smolen) Earlier, when I had
21 asked you about night shift and how it worked,
22 you said you didn't know because you had never
23 worked night shift, right?

24 A Yes, sir.

25 Q Okay. Your orientation packet states

1 that after you had completed your initial 40
2 hours of training, you will then be expected to
3 observe an experienced staff member for an
4 additional 40 hours, correct?

5 A Yes, sir.

6 Q So 80 hours of training is what this
7 policy indicates would happen, correct?

8 A Yes, sir.

9 Q Okay. It says that: During this time
10 you will be assigned to all shifts. Your
11 schedule will vary a great deal so that you are
12 aware of the responsibilities of all three
13 shifts, correct?

14 A Yes, sir.

15 Q That never happened, did it?

16 A No, sir.

17 MR. ARTUS: Object to the form.

18 Q (By Mr. Smolen) Give me one minute to
19 see if I can find one more. Look at Lang 003
20 under the Policy And Procedure Manual.

21 MR. ARTUS: Are you talking about
22 Exhibit 33?

23 MR. SMOLEN: Yeah, 33, Page 3.

24 MR. ARTUS: Okay. You said Policy
25 And Procedure Manual?

1 questions?

2 A Yes, sir.

3 Q Okay. Let's look at Exhibit 35. Are
4 you there? No. 6?

5 MR. LEBLANC: Can you be more
6 specific?

7 MR. SMOLEN: Oh, I'm sorry, Thomas
8 MCCOYS 442, Paragraph 6.

9 Q (By Mr. Smolen) Are you there?

10 A Yes, sir.

11 Q Okay. It says: Joe can now pull up
12 video on his phone. He observed five people
13 working and everyone watching TV and not
14 supervising the kids, right?

15 A That's what it says.

16 Q Okay. Two people sitting at the table
17 with backs to the kids at free time, correct?

18 A Yes, sir.

19 Q Joe could observe whether or not
20 15-minute checks were happening from his phone,
21 couldn't he?

22 A That's what it says.

23 Q Okay. And -- and he made people aware
24 of that, correct?

25 A Yes, sir.

1 to 8 of 22 under your Interview Summary. Are
2 you there?

3 A Yes, sir.

4 Q Okay. And I'm going to start with the
5 section that says: Lang said on 12/14/16, it's
6 about two-thirds of the way down through that
7 paragraph, okay?

8 A The first one or the second one?

9 Q It's in the second paragraph on that
10 page. It's the continuation of your summary of
11 your interview?

12 A Okay.

13 Q And it says: Lang said on 12/14/16.
14 Are you there?

15 A Okay, yeah.

16 Q It says: Lang said on 12/14/16,
17 resident, Billy Woods, started the intake
18 process before Lang arrived at 3:00 p.m. but
19 Lang was responsible for finishing the process.
20 Lang said Woods was, quote, nonchalant,
21 belligerent, and disrespectful at that time.

22 So he placed -- so he was placed in his room
23 until approximately 7:00 p.m. and then Lang
24 brought him out of his room to finish intake,
25 correct?

1 A That's what it says.

2 Q Do you recall making those statements?

3 A I remember talking to him, you know,
4 but...

5 Q Is that -- is that an accurate
6 description as to what happened?

7 A I don't believe so.

8 Q Okay. So --

9 A I don't know. I don't know.

10 Q Well, if you said that to an
11 investigator, okay, without -- short of us
12 having to pull out the audio recordings --

13 A Yes, sir.

14 Q -- do you believe that -- you weren't
15 lying, were you?

16 A No, I wasn't lying.

17 Q Okay.

18 A I'm guessing.

19 Q Well, you would have known then years,
20 you know, previous to today's deposition, you
21 would have a better memory as to what happened,
22 right?

23 A I was in -- I was in a jacked up state
24 of mind at that time. I can't remember.

25 THE COURT REPORTER: Say that one